IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.34 OF 2006

IN

SUMMARY SUIT NO.1225 OF 2003

M/s.Raghbir Furnishers. ...Plaintiff.

vs.

1.M/s.Hotel Corporation of India Ltd. & ors. ...Defendants.

Mr.M.K.Jain, for Plaintiff.

Ms.Rekha Tawade i/b. M/s.M.V. Kini & Co. for Defendant no.1.

Mr.Naushad Engineer with Chirag Mody i/b. RMG Law Associates.

CORAM: D.K.DESHMUKH,J.

DATED: 26th June, 2006.

P.C.:-

1. It is an admitted position that so far as defendant no.1 is concerned the earlier summons for judgment taken out by the plaintiff was dismissed for default. Instead of getting that summons for judgment restored the plaintiff has taken out this summons for judgment. Therefore, the learned Counsel appearing for plaintiff

himself conceded that this summons for judgment against defendant no.1 is not maintainable. So far as defendant no.2 is concerned, the learned Counsel appearing for Plaintiff submits that in the earlier summons for judgment M/s.Batra Hospitality Pvt.Ltd. was defendant no.2 and therefore, dismissal of that summons for judgment for default against M/s.Batra Hospitality Pvt.Ltd. will not dis-entitle the plaintiff from taking out this summons for judgment against the present defendant no.2 viz. M/s.Sahara Hospitality Ltd. However, perusal of the affidavit filed by the plaintiff itself in Chamber Summons no.602 of 2004 filed in this very suit shows that, according to the plaintiff itself, the plaintiff has joined M/s.Sahara Hospitality Pvt.Ltd. as defendant no.2 only because M/s.Batra Hospitality Pvt.Ltd. i.e. original defendant no.2 has changed its name and style from M/s.Batra Hospitality Pvt.Ltd. to M/s.Sahara Hospitality Pvt.Ltd. Obviously, therefore, the present summons for judgment against defendant no.2 is also not maintainable. But instead of stating this fact immediately to the Court so that Court's time is not wasted, the learned Counsel appearing for plaintiff continued to argue the matter for quite some time, thus wasting Court's time. Therefore, in my opinion, while dismissing this summons for judgment, costs are liable to be imposed on the plaintiff. The summons for judgment is disposed of. The defendants are granted unconditional leave to defend the suit. Written statement to be filed within Eight weeks from today. Plaintiff to pay as and by way of costs

of this summons for judgment Rs.10,000/- to each of the defendant.